

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ROBERT HOLMES III,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, et al.,

Defendants.

Case No. 2:15-cv-1118-LDG-PAL

***NUNC PRO TUNC CORRECTION OF  
ORDER (Dkt. #3)***

(IFP Application – Dkt. #1)

On June 29, 2015, this Court entered an Order (Dkt. #3) granting Plaintiff's Application to Proceed *In Forma Pauperis* (Dkt. #1). An inadvertent drafting error was made in that Order regarding the amount of the filing fee for persons granted *in forma pauperis* status. This *nunc pro tunc*<sup>1</sup> correction order is issued for the limited purpose of correcting the record regarding the amount of the filing fee due.

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This matter is before the Court on Plaintiff Robert Holmes III's Application to Proceed *In Forma Pauperis* (Dkt. #1) filed June 12, 2015. Plaintiff is a prisoner proceeding in this action *pro se*, and he has submitted a Complaint along with a financial affidavit and inmate trust account statement required by 28 U.S.C. § 1915(a)(2). This proceeding was referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rules IB 1-9.

Plaintiff's financial affidavit shows that he is unable to prepay fees and costs or give security for them. Accordingly, his request to proceed in forma pauperis will be granted

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<sup>1</sup> The Latin phrase "*nunc pro tunc*" means *now for then*. The purpose of a *nunc pro tunc* order is to correct clerical errors in order to achieve the results the Court intended at the earlier time. *See Singh v. Mukasey*, 533 F.3d 1103, 1110 (9th Cir. 2008).

1 pursuant to 28 U.S.C. § 1915(a). Plaintiff must pay an initial partial filing fee of the greater of  
2 twenty percent of the average monthly deposits or twenty percent of the average monthly balance  
3 of his account for the six months immediately preceding the commencement of this action. *See*  
4 28 U.S.C. § 1915(b)(1). Plaintiff's average monthly balance is \$0.78¢, and his average monthly  
5 deposit is \$16.67. Therefore, the Court finds that Plaintiff must pay an initial partial filing fee of  
6 \$3.33. Upon receipt of the initial partial filing fee, the Court will screen Plaintiff's complaint  
7 pursuant to 28 U.S.C. § 1915A ("The court shall review, before docketing, if feasible or, in any  
8 event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner  
9 seeks redress from a government entity or officer or employee of a governmental entity").  
10 Plaintiff is advised that even if this action is dismissed, he must still pay the full filing fee  
11 pursuant to 28 U.S.C. § 1915(b)(2).

12 Accordingly,

13 **IT IS ORDERED:**

- 14 1. Plaintiff's Application to Proceed *In Forma Pauperis* (Dkt. #1) is GRANTED.  
15 He shall Plaintiff shall be required to pay an initial partial filing fee in the amount  
16 of \$3.33 toward the full filing fee of \$350.00.<sup>2</sup> Plaintiff shall have until **July 24,**  
17 **2015**, to have the designated fee sent to the Clerk of the Court. Failure to do so  
18 may result in a recommendation to the district judge for dismissal of this action.  
19 Even if this action is dismissed, the full filing fee must still be paid pursuant to 28  
20 U.S.C. § 1915(b)(2). Upon receipt of the initial partial filing fee, the Court will  
21 screen Plaintiff's complaint pursuant to 28 U.S.C. § 1915(a).
- 22 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of  
23 prepayment of any additional fees or costs or the giving of security therefor. This  
24 Order granting *in forma pauperis* status shall not extend to the issuance of  
25 subpoenas at government expense.


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27  
28 <sup>2</sup> Pursuant to the Court's Schedule of Fees dated January 1, 2015, the administrative fee of \$50.00 does not apply to  
persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

3. The Clerk of Court shall provide Plaintiff with two copies of this Order. Plaintiff is ordered to make the necessary arrangements to have one copy of this Order attached to the check in the amount of the initial partial filing fee.

4. Pursuant to 28 U.S.C. § 1915(b)(2), the Southern Desert Correctional Center shall forward to the Clerk of the United States District Court, District of Nevada, twenty percent preceding month's deposits to Plaintiff's account (in the months that the account exceeds \$10.00) until the full \$350.00 filing fee has been paid for this action. The Clerk of the Court shall send a copy of this Order to the Finance Division of the Clerk's Office and the Accounting Supervisor of the Southern Desert Correctional Center. If Plaintiff should be transferred, the Accounting Supervisor at Southern Desert Correctional Center is directed to send a copy of this Order to the new place of incarceration, indicating the amount that Plaintiff has paid towards his filing fee, so that funds may continue to be deducted from Plaintiff's account.

5. Plaintiff's Motion for Appointment of Counsel (Dkt. #2) is DENIED WITHOUT PREJUDICE. Plaintiff may refile the motion after the Court has screened the complaint pursuant to 28 U.S.C. § 1915 and found he has stated a cognizable federal claim.

Dated this 20th day of July, 2015.  
NUNC PRO TUNC date of June 29, 2015.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE